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DECEIT — GENERAL REQUISITES AND DEFENSES — REPRESENTATIONS OF VALUE AS FACT. — The defendant induced the plaintiff to buy her hotel property by making representations, known to be false, that it was worth \$35,000 and was a “big paying proposition.” In fact the property was worth about \$17,000. The plaintiff was particularly ignorant and inexperienced in business matters, as the defendant knew. The court charged that the plaintiff could recover if the misrepresentations were intended and understood by the parties as assertions of fact. *Held*, that this is not error. *Adan v. Steinbrecher*, 133 N. W. 477 (Minn.).

As a general rule misrepresentations of value are regarded as mere statements of opinion, “seller’s talk,” and not actionable. *Chrysler v. Canaday*, 90 N. Y. 272. But under some circumstances a statement ordinarily one of opinion may be a statement of fact. *Andrews v. Jackson*, 168 Mass. 266, 47 N. E. 412. So an action is allowed where the vendor has special means of knowledge which the vendee has not. *Shelton v. Healy*, 74 Conn. 265, 50 Atl. 742. Or where the value is difficult of ascertainment, and can be known only to an expert. *Picard v. McCormick*, 11 Mich. 68. Or where the defendant is in a position of trust or confidence. *Hauk v. Brownell*, 120 Ill. 161, 11 N. E. 416. See *Gustafson v. Rustemeyer*, 70 Conn. 125, 133, 39 Atl. 104, 106. Or where the vendor dissuades the vendee from making inquiries which would disclose the truth. *Nysewander v. Lowman*, 124 Ind. 584, 24 N. E. 355. Whether in a particular case the words are a statement of fact or of opinion must depend largely on the circumstances of the case, with the broad general principle that the law does not permit misrepresentations made with intent to deceive intending purchasers. Cf. *Watson v. Molden*, 10 Idaho 570, 582, 79 Pac. 503, 507. The principal case accords with the modern tendency to hold the doctrine of “seller’s talk” inapplicable where the misrepresentation of value is made and acted on as an affirmation of fact. *Crompton v. Beedle*, 83 Vt. 287, 75 Atl. 331; *Heitland v. Bilstad*, 140 Ia. 411, 118 N. W. 422.

EVIDENCE — CHARACTER — SPECIFIC ACTS TO SHOW CHARACTER OF DECEASED ON ISSUE OF SELF-DEFENSE. — Evidence was excluded that the deceased had said that he was a “desperado nigger” and had been sentenced to the state penitentiary. *Held*, that this is not error. *Coulter v. State*, 140 S. W. 719 (Ark.).

When there is some evidence of self-defense, the violent character of the deceased, even if unknown to the defendant, may probably be used to show who was the aggressor. See 1 WIGMORE, EVIDENCE, § 63. Threats by the deceased may also be used for this purpose. *Wilson v. State*, 30 Fla. 234, 11 So. 556; *State v. Turpin*, 77 N. C. 473. But particular acts of violence should not be admissible for this purpose unless closely connected with the act charged. *People v. Gaimari*, 176 N. Y. 84, 68 N. E. 112; *State v. Sale*, 119 Ia. 1, 92 N. W. 680. But cf. *State v. Beird*, 118 Ia. 474, 92 N. W. 694. When the issue of self-defense is raised and the accused knew of the violent character of the deceased, this may be used to show that the former acted under the apprehension of danger. *Monroe v. State*, 5 Ga. 85, 137; *Horlock v. State*, 43 Tex. 242. Threats by the deceased known to the accused may also be used for this purpose. *Powell v. State*, 52 Ala. 1; *State v. Burton*, 63 Kan. 602, 66 Pac. 633. As to whether specific acts of violence by the deceased known to the accused may be admitted for this purpose, authorities differ. *People v. Harris*, 95 Mich. 87, 54 N. W. 648; *People v. Thomas*, 67 N. Y. 218; *Alexander v. Commonwealth*, 105 Pa. St. 1. But since there is no allegation in the principal case that the defendant knew of the facts excluded, the decision seems sound. Nor do the statements show the mental attitude of the deceased in regard to the crime charged sufficiently to claim admission on that ground. Cf. *Commonwealth v. Trefethen*, 157 Mass. 180, 31 N. E. 961.